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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/667,178 | 09/18/2003 | Jack William Maegli | | 1612 |

34790 7590 09/09/2004

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EXAMINER

COURSON, TANIA C

ART UNIT PAPER NUMBER

2859

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,178

Applicant(s)

MAEGLI, JACK WILLIAM

Examiner

Tania C. Courson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

I. The species shown in Figures 1-3 and 6.

II. The species shown in Figures 4-5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 appears to be generic.

2. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with Mr. Jack W. Maegli on August 31, 2004, a provisional election was made without traverse to prosecute the invention of Group I.(Figs. 1-3 and 6), claims 1, 2 and 4-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3 and 7-10 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "1" through "6" have been used to designate inconsistent various parts in Figures 1-4 and 6. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because of the following:

- a) Fig. 5: This figure requires appropriately associated numerals to indicate what is being shown in the drawings in order to facilitate the invention.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:
- a) The entire specification contains numerals “1” through “6” having numerous designations for each numeral, for example, Figure 1 designates “1” as “a primary gnomon” (specification, page 8, line 9) and Figure 2 designates “1” as “an equatorial ring” (specification, page 9, line 2). Each numeral should have only one designation, not multiple designations.

Appropriate correction is required.

Claim Objections

7. Claims 1-2 are objected to because of the following informalities:
- a) claim 1, in line 1, the preamble contains unclear language, “containing two single and independent time and date scales” should read “containing a single and independent time scale and a single and independent date scale”;
 - b) claim 1, in line 7, “A time scale” should read “the time scale”;
 - c) claim 1, in line 4, “the time scale.” should read “the time scale;”;
 - d) claim 1, in line 6, “date scale.” should read “date scale;”;
 - e) claim 2, in line 1, “an equatorial ring” should read “the equatorial ring”, and;
 - f) claim 2, in line 1, “a single time scale” should read “the single time scale”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis (US 4,102,054).

Lewis discloses in Figures 1-4, a sundial comprising:

- a) a primary polar gnomon (Fig. 1, first member 18 & cord 26) with superimposed date scale (Fig. 1, indicia 22) for projecting a shadow on the time scale (Fig. 1), an equatorial ring (Fig. 1, second member 28, cord 30 and slip ring 34) or disc, the approximate top half serving as a secondary gnomon for projecting a shadow on the primary gnomon date scale (Fig. 1), the time scale represented on the approximate bottom half of the equatorial ring (Fig. 1, time indicia 36) or disc;
- b) where the equatorial ring is used and the single time scale is represented on the approximate bottom half of the equatorial ring (Fig. 1, second member 28, cord 30 and slip ring 34);
- c) where the primary gnomon has a date scale of the spring equinox months on one side and the fall equinox months on the other (Fig. 3 and column 4, lines 27-39);

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- d) where a pivotal axle (Fig. 1, bolt 16) mounted perpendicular to the equatorial plane between the equatorial ring (Fig. 1) and a mounting bracket (Fig. 1, pedestal 12) allows adjustment to compensate for the longitudinal location and daylight savings time (Fig. 1 and column 4, line 50 through column 5, line 8);
- e) where the mounting bracket includes an adjustable latitude angular adjustment (Fig. 1 and column 4, line 50 through column 5, line 8).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a sundial:

Hughes, Jr. (US 6,604,290 B1)

Wurch et al. (US 4,237,611)

Ashton (US 4,135,357)

Gundlach (US 3,815,249)

Sunblad (US 2,754,593)

Mead (US 2,192,750)

Balch (US 1,570,029)

Dick (US 978,859)

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
September 2, 2004